

# Village Residential District Ordinance

## Town of Bar Harbor

### An Amendment to amend the Village Residential land use district.

*The Town of Bar Harbor hereby ordains that Chapter **125** of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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## Chapter 125, LAND USE ORDINANCE

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### Article III, Land Use Activities and Standards

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#### § 125-20. Village Residential.

##### A. Purpose:

The Village Residential District encompasses the well-established residential neighborhoods that surround the traditional downtown area of Bar Harbor. It consists mostly of single family homes, but also includes condominium, ~~and~~ multifamily, and light commercial type uses. New development, re-development, and infill development shall respect and reflect standards to assure the uses are compatible to any nearby properties.

##### B. Dimensional Standards

- (1) Minimum lot size: 10,000 square feet with sewers; 40,000 square feet without sewer.
- (2) Minimum road frontage and lot width: 100 feet.
- (3) Minimum front setback for structures: 20 feet.
- (4) Minimum side setback for principal structures: 10 feet.
- (5) Minimum side setback for accessory, nonresidential structures: 5 feet.
- (6) Minimum rear setback for principal structures: 10 feet.
- (7) Minimum rear setback for accessory, nonresidential structures: 5 feet.
- (8) Maximum lot coverage: 50% with sewer, 25% without sewer.
- (9) Maximum height: 40 feet.
- (10) Minimum area per family: 10,000 square feet with sewers; or 20,000 square feet without sewer.

**~~§ 125-20. Bar Harbor Residential.~~**

- ~~A. Minimum lot size: 20,000 square feet, or an average of all lots within 300 [feet] (average calculation excludes lots in excess of 20,000 square feet), whichever is smaller, with sewers; 40,000 square feet without sewers. [Amended 6-13-2006<sup>EN</sup>]~~
- ~~B. Minimum road frontage and lot width: 100 [feet].~~
- ~~C. Minimum front setback: 25 [feet].~~
- ~~D. Minimum side setback for principal structures: 10 [feet].~~
- ~~E. Minimum side setback for accessory, nonresidential structures: five [feet].~~
- ~~F. Minimum rear setback for principal structures: 15 [feet].~~
- ~~G. Minimum rear setback for accessory, nonresidential structures: five [feet].~~
- ~~H. Maximum lot coverage: 25%.~~
- ~~I. Maximum height: 40 [feet].~~
- ~~J. Minimum area per family: 10,000 square feet, or the average of all lots within 300 [feet] (average calculation excludes lots in excess of 20,000 square feet), whichever is smaller, with sewers; or 20,000 square feet without sewers. [Amended 6-13-2006<sup>EN</sup>]~~

**C. Allowed Uses:**

- (1) Principal uses allowed by building permit or a change of use permit with the Code Enforcement Officer: government facility/use with road lot frontage on Route 3 or Eagle Lake Road; home occupation; municipal school; municipal use; public or private park; single and two-family dwelling; vacation rental on homestead exemption property<sup>1</sup>; roadside stand.
- (2) Accessory Uses that are usual and normal to principal use are allowed if they are typically permitted by Code Enforcement Officer or site plan review for the district the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

**D. Uses Allowed by Site Plan:**

- (1) The following uses shall be permitted by site plan review in any part of this district: Multifamily I; nursing/convalescent home in a building constructed before June 8, 2010, road construction.
  - ~~(a) The following uses are permitted by site plan review for lots with frontage on Route 3 or 233: professional office building; medical clinic; undertaking establishment; family child care; child care center; art gallery; museum; private school; veterinary hospital or clinic.~~

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<sup>1</sup> Activity allowed only for single-family dwelling on a homestead exemption property plus one additional accessory dwelling on same property. This activity includes the units in a two-family dwelling when the two-family dwelling is the sole principal structure on the lot.

E. Uses Allowed by Conditional Use Permit with road frontage or access on Route 3 or 233:

- (1) professional office building; art gallery; museum; private school; veterinary clinic or hospital; takeout restaurant; famers market; cabins; all bed and breakfast designations.

F. Uses Allowed by PUD:

- (1) Multifamily II.

G. Allowed Activities:

- (1) Activities allowed without a permit, provided it complies with all provisions of Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation/essential services.
- (2) Activities allowed by building permit and require approval of the Code Enforcement Officer: driveway construction; filling/earth moving activity 16 cubic yards or more; non-commercial greenhouse; and wind turbine.

H. Other Requirements:

- (1) Accessory structures shall be located in the side and rear yard of the property.
- (2) All new construction or changes to facades and signs shall require Design Review Board approval. Single family homes are exempt from this provision unless otherwise included in Appendix A or B of this Chapter.
- (3) Parking lots shall require buffering and vegetative screening from neighboring properties.

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## **Article V, Site Plan Review**

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### **§ 125-67. General Review Standards.**

The Planning Board, before granting site plan approval, must find the proposed plan will comply with each of the following standards. In all instances the burden of proof shall be upon the applicant.

- B. Lot standards. Except as modified by the provisions for planned unit developments set forth in § 125-69M and S, as applicable, any proposed structure or lot must comply with the lot size, area per family, road frontage, lot width, and front, side and rear setback requirements, as determined by reference to Article III for each district in which it is proposed subject to the following: [Amended 5-7-1991; 11-5-1991; 5-1-1995; 5-6-1996; 11-2-1999; 11-4-2003; 5-3-2004; 11-2-2004; 5-2-2005; 6-13-2006<sup>iiiEN</sup>]

- (6) Exceptions to setback. The following structures, subject to the limitations set forth below, are not subject to the setback requirements of the district in which they are located, provided that no such structure shall be constructed in such a way as to obstruct visibility from the end of any driveway or otherwise to constitute a safety hazard, and provided that the following structures comply with the provisions in §§ 125-68B(8) and (12), if applicable. [Amended 5-2-2005; 11-7-2006; 11-4-2008]

(j) Roadside stands.

(k) Streetscape improvements such as sidewalk, benches, bike paths etc.

BB. Signs and advertising. All site plans shall demonstrate that all signs related to the proposed development will comply with the following standards, to which all signs located within the Town of Bar Harbor are subject, regardless of the need for site plan approval. In addition, activities located within the Design Review Overlay District that require a certificate of appropriateness pursuant to Article XIII, Design Review, are subject to additional requirements set forth in the standards of Article XIII. [Amended 11-5-1991; 11-2-1999; 11-4-2003; 6-13-2006; 11-7-2006; 11-6-2007; 6-9-2009]

- (6) Signs subject to the review by the Design Review Board for a certificate of appropriateness.

(a) Building permits required.

- [1] All signs listed below are required to receive a certificate of appropriateness from the Design Review Board prior to receiving a building permit if they are located within the following districts:

[I] Village Residential District

### **§ 125 -69. Standards for particular uses structures or activities.**

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

U. Purpose of Conditional Use. The purpose of this section is to establish procedures and standards to enable the Planning Board to review applications for Conditional Uses. A Conditional Use is a structure or use that is generally not appropriate in a given district, but with restrictions and if controlled as to location, size and off-site impacts may have no adverse effects upon the public health, safety or welfare, surrounding properties, the natural environment, or on municipal services. The only structures or uses that shall be permitted as conditional uses are those approved as Conditional Uses by the Planning Board.

- (1) Conditional Use Approval Required. A building, structure or parcel of land may be used for a conditional use if the use is specifically listed as a conditional use within a specified land use district. Conditional Use approval is granted by the Planning Board. The process for Conditional Use approval shall include all pertinent sections of Article V and Article XIII.

(2) Process for Review of Conditional Use.

- (a) A Conditionally Permitted Use shall be subject to the review procedures for major site plan included in Section 125-61 of Article V.
- (b) A Conditionally Use Permitted Use shall be subject to the submission requirements for major site plan included in Section 125-66 of Article V.

[1] A Conditionally Permitted Use shall be eligible for a waiver request pursuant to Section 125-63 of Article V.

[2] A Conditionally Permitted Use shall be eligible for a modification of standard pursuant to Section 125-64 of Article V.

(3) Action on the Application for a Conditional Use Permit. The Planning Board may affirm, affirm with conditions, or deny the application for a Conditional Use Permit. In addition to the findings required by Section 125-67, the Planning Board may authorize issuance of a Conditional Use Permit based upon the following findings:

- (a) The proposed use will not create hazards to vehicular or pedestrian traffic on the streets, roads and sidewalks serving the proposed use as determined by the size and condition of such streets, roads, sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles;
- (b) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties. Furthermore, the proposed use will allow abutting property owners continued peaceful enjoyment their land;
- (c) The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils that will create or aggravate adverse environmental impacts on surrounding properties;
- (d) The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat that could be avoided by reasonable modification of the plan.
- (e) The proposed use will not adversely affect the value of adjacent properties; and
- (f) The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood as determined by the Design Review Board pursuant to Section 125-114.

(4) Conditions of Approval.

- (a) The Planning Board may attach conditions to its approval of a Conditional Use to ensure the findings noted above will be met.

- (b) The Planning Board may require that the terms of any conditions of approval be recorded in the Hancock County Registry of Deeds prior to issuance of a building permit.

(5) Duration of Conditional Use Approval.

- (a) Provided all conditions and standards of approval are met, a Conditional Use shall be a continuing grant of permission for as long as the property is used for such purposes. The Conditional Use shall expire if the owner:

[1] Physically alters the property and/or structure so it can no longer be used for the Conditional Use, or

[2] Ceases to use the property for the approved Conditional Use for one year or more, or

[3] Fails to initiate the operation or conduct of the Conditional Use within one year of the date of the Planning Board's vote to grant said approval.

- (b) A Conditional Use may be expanded in area or function only with the granting of a new Conditional Use approval by the Planning Board. Other modifications to an approved plan shall be subject to Section 125- 67.G, Minor Site Plan.

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## **Article XII, Construction and Definitions**

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### **§ 125-109. Definitions.**

The following terms shall have the following meanings:

Conditional Use - - a land use that, because of its unique characteristics or potential impact on the Town, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. By classifying certain uses as conditionally permitted, separate regulations can be imposed to evaluate and mitigate potential adverse impacts.

Conditional Use Permit - - A permit issued by the Planning Board stating that the conditional use meets all conditions set forth in the Land Use Ordinance. It is a mechanism that allows the ability to permit specific uses not otherwise allowed, as long as the landowner or business owner meets certain conditions.

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## **Article XIII, Design Review**

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### **§ 125-112. Applicability of Design Review.**

A. Design Review Overlay Districts.

- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the “district.”
- (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Village Districts; the Shoreland General Development I District; the Bar Harbor Gateway District; the Village Historic District; the Bar Harbor Historic Corridor District (excluding those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D); and the Town Hill Village District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes all Bed and Breakfast, and Conditionally Permitted Uses ~~uses~~ regardless of their district location.

**MAP AMENDMENT**

*Assign the Village Residential District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on June 2, 2010:*

Map and Lot	Map and Lot	Map and Lot	Map and Lot	Map and Lot
106-080-000	106-079-001	110-008-000	110-048-000	115-034-000
109-001-000	106-079-000	110-009-000	110-025-000	115-033-000
109-002-000	107-001-000	110-013-000	110-026-000	115-032-000
109-003-000	107-012-000	110-012-000	110-027-000	115-032-000
109-004-000	107-010-000	110-011-000	110-033-000	115-032-000
109-005-000	107-009-000	110-010-000	110-032-000	253-001-000
109-006-000	107-011-000	110-016-000	110-031-000	115-037-000
109-007-000	107-013-000	107-222-000	110-040-000	115-026-000
109-022-000	107-014-000	107-222-001	110-014-000	115-027-000
109-023-000	107-015-000	107-223-000	110-034-000	115-028-000
109-011-000	107-017-000	108-067-000	110-056-000	115-029-000
109-012-000	107-016-000	108-075-000	110-055-000	115-030-000
109-013-000	107-025-000	108-067-001	110-035-000	115-031-000
109-014-000	107-004-000	107-223-001	110-036-000	253-010-000
109-015-000	107-005-000	110-017-000	110-054-000	116-001-000
109-008-001	107-025-001	110-018-000	110-053-000	116-002-000
109-008-000	107-018-000	110-019-000	110-037-000	116-001-001
109-010-000	107-019-000	110-020-000	110-038-000	116-003-000
109-009-000	107-071-000	110-021-000	114-002-000	116-004-000
109-021-000	107-020-000	110-022-000	110-039-000	116-005-000
109-020-000	107-024-000	110-029-000	115-001-000	116-013-000
109-017-000	107-023-000	110-023-000	115-002-000	116-012-000
109-019-000	107-003-000	110-044-000	115-003-000	116-010-000
109-016-000	107-001-031	111-002-006	115-006-000	116-014-000
109-026-000	107-001-027	111-002-000	115-005-000	116-009-000
109-024-000	107-001-029	110-043-000	115-013-000	116-006-000

Map and Lot	Map and Lot	Map and Lot	Map and Lot	Map and Lot
107-001-001	107-001-099	110-041-000	115-011-000	116-011-000
107-001-099	107-001-025	110-042-000	115-010-000	116-008-000
107-001-038	107-001-023	111-002-007	115-023-000	253-016-000
107-001-039	107-001-019	111-001-000	115-024-000	253-015-000
107-001-005	107-001-021	111-009-000	115-024-000	253-014-000
107-001-003	107-001-017	111-002-008	115-024-000	253-013-000
107-001-002	107-001-099	111-010-000	115-024-000	253-012-000
107-001-004	107-001-015	111-002-005	115-024-000	253-011-000
107-001-006	107-001-044	110-051-000	115-024-000	253-017-000
107-001-008	107-001-099	110-050-000	115-024-000	116-007-000
107-001-010	107-282-000	110-045-000	115-024-000	253-018-000
107-001-012	107-001-013	110-030-000	115-024-000	253-019-000
107-001-014	107-001-011	111-011-000	115-024-000	253-004-000
107-001-018	107-001-009	115-017-000	115-024-000	253-020-000
107-001-020	107-001-007	115-018-000	115-024-000	253-021-000
107-001-022	107-001-040	115-019-000	115-024-000	253-022-000
107-001-016	107-001-099	115-020-000	115-024-000	253-023-000
107-001-024	107-001-041	115-016-000	115-024-000	253-024-000
107-001-099	107-001-042	115-014-000	115-024-000	253-026-000
107-001-026	107-001-043	115-009-000	115-024-000	253-027-000
107-001-028	107-001-099	115-008-000	115-024-000	253-028-000
107-001-030	107-022-000	115-007-000	115-024-000	253-029-000
107-001-032	110-002-000	115-004-000	115-024-000	253-030-000
107-001-033	110-004-000	111-004-000	115-024-000	253-031-000
107-001-034	110-005-000	111-003-000	115-024-000	253-008-000
107-001-035	110-006-001	110-052-000	115-024-000	253-032-000
107-001-036	107-021-000	110-049-000	115-024-000	253-009-000
106-099-001	110-006-000	110-046-000	115-025-000	110-015-000
107-001-037	110-007-000	110-024-000	115-036-000	
106-078-000	114-001-000	110-047-000	115-035-000	

**MAP AMENDMENT**

*Assign the Downtown Residential District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on: June 2, 2010*

Map-Lot	Map-Lot	Map-Lot	Map-Lot
106-055-001	106-062-000	106-063-000	106-072-000
106-055-002	106-087-000	106-064-000	106-073-000
106-056-000	106-086-000	106-066-000	106-074-000
106-055-003	106-085-000	106-067-000	106-075-000

Map-Lot	Map-Lot	Map-Lot	Map-Lot
106-058-000	106-084-000	106-068-000	106-076-000
106-059-000	106-082-000	106-070-000	106-077-000
106-061-000	106-081-000	106-071-000	106-107-000
106-106-000	106-105-000	106-104-000	106-102-000
106-102-000	106-101-000	106-100-000	106-099-000
106-094-000	106-095-000	106-097-000	106-098-000
106-098-004	106-098-003	106-093-000	106-098-002
106-098-001	106-089-000	106-088-000	

[end of ordinance]

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**LEGISLATIVE HISTORY:**

Introduced: \_\_\_\_\_

Town Attorney Approved: \_\_\_\_\_

Revised in response to Council input: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

Council Adopted: \_\_\_\_\_

Sent for Codification: \_\_\_\_\_

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<sup>i</sup> ~~Editor's Note: This ordinance also provided that it shall apply retroactively to all proceedings, applications and/or petitions pending on or commenced after 9-6-2005, notwithstanding the provisions of 1 M.R.S.A. § 302.~~

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